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SENATE BILL 656

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING THE PREFERRED PROVIDER
ARRANGEMENTS LAW TO INCLUDE EXCLUSIVE PROVIDER ARRANGEMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-22A-1 NMSA 1978 (being Laws 1993,
Chapter 320, Section 59) is amended to read:

"59A-22A-1. SHORT TITLE.--Chapter 59A, Article 22A NMSA
1978 shall be known and may be cited as the "Preferred Provider
and Exclusive Provider Arrangements Law"."

Section 2. Section 59A-22A-2 NMSA 1978 (being Laws 1993,
Chapter 320, Section 60) is amended to read:

"59A-22A-2. PURPOSE.--The purpose of the Preferred
Provider and Exclusive Provider Arrangements Law is to
encourage health care cost containment while preserving quality
of care by allowing health care insurers to enter into

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1 preferred provider arrangements and exclusive provider
2 arrangements in accordance with minimum standards for preferred
3 provider arrangements and exclusive provider arrangements and
4 for the health benefit plans associated with those
5 arrangements."

6 Section 3. Section 59A-22A-3 NMSA 1978 (being Laws 1993,
7 Chapter 320, Section 61) is amended to read:

8 "59A-22A-3. DEFINITIONS.--As used in the Preferred
9 Provider and Exclusive Provider Arrangements Law:

10 A. "covered person" means any person on whose
11 behalf the health care insurer is obligated to pay for or to
12 provide health benefit services;

13 B. "covered services" means health care services
14 [~~which~~] that the health care insurer is obligated to pay for or
15 to provide under a health benefit plan;

16 C. "emergency care" means covered services
17 delivered to a covered person after the sudden onset of a
18 medical condition manifesting itself by acute symptoms that are
19 severe enough that:

20 (1) the lack of immediate medical attention
21 could result in:

22 (a) placing the person's health in
23 jeopardy;

24 (b) serious impairment of bodily
25 functions; or

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1 (c) serious dysfunction of any bodily
2 organ or part; or

3 (2) a reasonable person believes that
4 immediate medical attention is required;

5 D. "exclusive provider arrangement" means a
6 contract between or on behalf of a health care insurer and a
7 preferred provider that requires persons covered under a health
8 care insurer's plan to use the services of preferred providers
9 and that complies with all the requirements of the Preferred
10 Provider and Exclusive Provider Arrangements Law;

11 [~~D.~~] E. "health benefit plan" means the health
12 insurance policy or subscriber agreement between the covered
13 person or the policyholder and the health care insurer [~~which~~]
14 that defines the covered services and benefit levels available;

15 [~~E.~~] F. "health care insurer" means any person who
16 provides health insurance in this state. For the purposes of
17 the Small Group Rate and Renewability Act, "carrier" or
18 "insurer" includes a licensed insurance company, a licensed
19 fraternal benefit society, a prepaid hospital or medical
20 service plan, a health maintenance organization, a nonprofit
21 health care organization, a multiple employer welfare
22 arrangement or any other person providing a plan of health
23 insurance subject to state insurance regulation;

24 [~~F.~~] G. "health care provider" means providers of
25 health care services licensed as required in this state;

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1 ~~[G.]~~ H. "health care services" means services
2 rendered or products sold by a health care provider within the
3 scope of the provider's license. The term includes hospital,
4 medical, surgical, dental, vision and pharmaceutical services
5 or products;

6 ~~[H.]~~ I. "preferred provider" means a health care
7 provider or group of providers who have contracted with a
8 health care insurer to provide specified covered services to a
9 covered person; and

10 ~~[I.]~~ J. "preferred provider arrangement" means a
11 contract between or on behalf of the health care insurer and a
12 preferred provider ~~[which]~~ that complies with all the
13 requirements of the Preferred Provider and Exclusive Provider
14 Arrangements Law."

15 Section 4. Section 59A-22A-4 NMSA 1978 (being Laws 1993,
16 Chapter 320, Section 62) is amended to read:

17 "59A-22A-4. PREFERRED PROVIDER ARRANGEMENTS AND EXCLUSIVE
18 PROVIDER ARRANGEMENTS.--

19 A. Notwithstanding any provisions of law to
20 contrary, any health care insurer may enter into preferred
21 provider arrangements and exclusive provider arrangements.

22 ~~[A.]~~ B. Such arrangements shall:

23 (1) establish the amount and manner of payment
24 to the preferred provider. Such amount and manner of payment
25 may include capitation payments for preferred providers;

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1 (2) include mechanisms [~~which~~] that are
2 designed to minimize the cost of the health benefit plan; for
3 example:

4 (a) the review or control of utilization
5 of health care services; or

6 (b) procedures for determining whether
7 health care services rendered are medically necessary; and

8 (3) assure reasonable access to covered
9 services available under the preferred provider arrangement and
10 an adequate number of preferred providers to render those
11 services.

12 [~~B.~~] C. Such arrangements shall not unfairly deny
13 health benefits for medically necessary covered services.

14 [~~E.~~] D. If an entity enters into a contract
15 providing covered services with a health care provider, but is
16 not engaged in activities [~~which~~] that would require it to be
17 licensed as a health care insurer, such entity shall file with
18 the superintendent information describing its activities, a
19 description of the contract or agreement it has entered into
20 with the health care providers and such other information as is
21 required by the provisions of the Health Care Benefits
22 Jurisdiction Act and any regulations promulgated under its
23 authority. Employers who enter into contracts with health care
24 providers for the exclusive benefit of their employees and
25 dependents are subject to the Health Care Benefits Jurisdiction

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1 Act and are exempt from this requirement only to the extent
2 required by federal law."

3 Section 5. Section 59A-22A-5 NMSA 1978 (being Laws 1993,
4 Chapter 320, Section 63) is amended to read:

5 "59A-22A-5. HEALTH BENEFIT PLANS.--

6 A. Health care insurers may issue preferred
7 provider arrangement health benefit plans [~~which~~] that provide
8 for incentives for covered persons to use the health care
9 services of preferred providers. Such policies or subscriber
10 agreement shall contain at least the following provisions:

11 (1) a provision that if a covered person
12 receives emergency care for services specified in the preferred
13 provider arrangement and cannot reasonably reach a preferred
14 provider that emergency care rendered during the course of the
15 emergency will be reimbursed as though the covered person had
16 been treated by a preferred provider; and

17 (2) a provision [~~which~~] that clearly
18 identifies the differentials in benefit levels for health care
19 services of preferred providers and benefit levels for health
20 care services of non-preferred providers.

21 B. If a preferred provider arrangement health
22 benefit plan provides differences in benefit levels payable to
23 preferred providers compared to other providers, such
24 differences shall not unfairly deny payment for covered
25 services and shall be no greater than necessary to provide a

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1 reasonable incentive for covered persons to use the preferred
2 provider.

3 C. Health care insurers may issue exclusive
4 provider arrangement health benefit plans that require covered
5 persons to use the health care services of preferred providers.
6 These policies or subscriber agreements shall contain a
7 provision stating that in the event a covered person receives
8 emergency care for services specified in the exclusive provider
9 arrangement and cannot reasonably reach a preferred provider,
10 emergency care rendered during the course of the emergency will
11 be reimbursed as though the covered person had been treated by
12 a preferred provider."

13 Section 6. Section 59A-22A-7 NMSA 1978 (being Laws 1993,
14 Chapter 320, Section 65) is amended to read:

15 "59A-22A-7. GENERAL REQUIREMENTS.--Health care insurers
16 complying with the Preferred Provider and Exclusive Provider
17 Arrangements Law shall be subject to and are required to comply
18 with all other applicable laws, rules and regulations of this
19 state."